

Sally A. Odegard, Esq. (011646) (sodegard@hoklaw.com)  
**HOLLOWAY ODEGARD & KELLY, P.C.**

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Phoenix, Arizona 85016 (45.034)

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Facsimile: (602) 240-6677

*Attorneys for Defendants City of Phoenix,  
Hunnicut, Warner and Theriault*

John T. Masterson, Esq. (007447) (jmasterson@jshfirm.com)

**JONES, SKELTON & HOCULI, PLC**

40 N. Central Avenue, Suite 2700

Phoenix, Arizona 85004

Phone: (602) 263-7330

Facsimile: (602) 651-7599

*Attorneys for Defendant Marcos Rodriguez*

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

Marcela de Jesus Guzman Estrada, an  
individual,

Plaintiff,

v.

City of Phoenix, a municipality and jural  
entity; Marcos Rodriguez, an individual  
acting under the color of law; John Doe  
Hunnicut, an individual acting under the  
color of law; Brandon Warner, an  
individual acting under the color of law;  
and Carmina Theriault, an individual acting  
under the color of law,

Defendants.

Case No:

Maricopa County Superior Court

Case No. CV2019-004400

**Defendants City of Phoenix,  
Rodriguez, Hunnicutt, Warner  
and Theriault's Notice of Removal**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

Pursuant to 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446, Defendants City of  
Phoenix, Hunnicutt, Warner, Theriault and Rodriguez hereby remove this case from the  
Superior Court of Arizona, in and for the County of Maricopa, to the United States District  
Court for the District of Arizona, Phoenix. The grounds for removal are as follows:

1. On April 15, 2019, Marcela de Jesus Guzman Estrada commenced a civil  
lawsuit against the City of Phoenix, Marcos Rodriguez, John Doe Hunnicutt, Brandon

1 Warner and Carmina Theriault in the Maricopa County Superior Court of the State of  
2 Arizona as Cause No. CV2019-004400. All pleadings filed in the Maricopa County  
3 Superior Court prior to the Notice of Removal are attached as **Exhibit 1** to this Notice.

4 2. On April 17, 2019, Plaintiff served a copy of the Summons and Complaint  
5 on Defendant City of Phoenix.

6 3. On April 18, 2019, Plaintiff served a copy of the Summons and Complaint  
7 on Defendants Theriault, Warner, Hunnicutt and on Defendant Rodriguez on April 27,  
8 2019.

9 4. Undersigned counsel certified that all of the Defendants that have been  
10 properly named and served in this matter have consented to the removal of this matter to  
11 the United States District Court for the District of Arizona, as required by 28 U.S.C.  
12 § 1446(b)(2)(B).

13 5. Plaintiff has asserted claims arising under 42 U.S.C. § 1983, including  
14 alleged violations of the First, Fourth and Fourteenth Amendments to the Constitution of  
15 the United States, in Counts One and Three of Plaintiff's Complaint. *See* Plaintiff's  
16 Complaint at ¶¶64-79 and 85-96.

17 6. 28 U.S.C. § 1331 confers the District Court with original jurisdiction over all  
18 civil actions arising under the Constitution, laws, or treaties of the United States.

19 7. The District Court has original jurisdiction over the claims asserted by  
20 Plaintiff in Count I and III of the Complaint as these claims arise under the Constitution  
21 and laws of the United States.

22 8. The District Court for the District of Arizona has original jurisdiction over  
23 Plaintiff's claims arising under 42 U.S.C. § 1983.

24 9. The District Court for the District of Arizona has supplemental jurisdiction  
25 over Plaintiff's remaining state law claims as they form part of the same case or  
26 controversy that is the subject of the federal claims. 28 U.S.C. § 1367.

10. 28 U.S.C. § 1441 gives the District Court for the District of Arizona jurisdiction over this matter, which was originally filed in the Superior Court of Arizona for the County of Maricopa.

11. The undersigned attorney Sally A. Odegard certifies that on May 15<sup>th</sup>, 2019, she caused a copy of this Notice of Removal to be filed with the Clerk of the Maricopa County Superior Court.

DATED this 15<sup>th</sup> day of May, 2019.

**HOLLOWAY ODEGARD & KELLY, P.C.**

By 

Sally A. Odegard  
3020 E. Camelback Road, Suite 201  
Phoenix, Arizona 85012  
*Attorneys for Defendants City of Phoenix,  
Hunnicut, Warner and Theriault*

**JONES, SKELTON & HOCHULI, PLC**

By  FOR

John T. Masterson, Esq.  
40 N. Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
*Attorneys for Defendant Marcos Rodriguez*

**CERTIFICATE OF SERVICE**

I certify that on this 15<sup>th</sup> day of May, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

**David W. Dow, Esq.**  
**Jennifer L. Ghidotti, Esq.**  
**THE LAW OFFICES OF DAVID W. DOW**  
**3104 E. Camelback Road, Suite 281**  
**Phoenix, Arizona 85016**  
*Attorneys for Plaintiff*



UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

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<b>Plaintiff</b> (s):	<b>Marcela de Jesus Guzman Estrada</b>	<b>City of Phoenix ; Marcos</b> <b>Defendant Rodriguez ; John Doe Hunnicutt ;</b> (s): <b>Brandon Warner ; Carmina</b> <b>Theriault</b>
--------------------------	--	--

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Sally A. Odegard , Esq.**  
**HOLLOWAY ODEGARD & KELLY, PC**  
**3020 E. Camelback Road, Suite 201**  
**Phoenix, Arizona 85016**  
**(602) 240-6670**

**John T. Masterson , Esq.**  
**JONES, SKELTON & HOCHULI, PLC**  
**40 N. Central Avenue, Suite 2700**  
**Phoenix, Arizona 85004**  
**(602) 263-7330**

---

**REMOVAL FROM MARICOPA COUNTY, CASE #CV2019-004400**

---

II. Basis of Jurisdiction:            **2. U.S. Government Defendant**

III. Citizenship of Principal  
Parties (Diversity Cases Only)

Plaintiff:- N/A

Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **440 Other Civil Rights**

VI.Cause of Action: **28 U.S.C. 1441 Plaintiff alleges 42 U.S.C. 1983 Constitutional Rights and 1st, 4th and 14th Amendment Rights**

VII. Requested in Complaint

Class Action: **No**

Dollar Demand: **N/A**

Jury Demand: **Yes**

VIII. This case **IS RELATED** to Case Number **CV2019-004400** assigned to Judge **Connie Contes.**

---

**Signature:** **/s/ Sally A. Odegard, Esq.**

**Date:** **05/15/2019**

**If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.**

**SUPPLEMENTAL CIVIL COVER SHEET  
FOR CASES REMOVED FROM ANOTHER JURISDICTION**

This form must be attached to the Civil Cover Sheet at the time  
the case is filed in the United States District Clerk's Office

Additional sheets may be used as necessary.

**1. Style of the Case:**

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

<u>Party</u>	<u>Party Type</u>	<u>Attorney(s)</u>
Marcela de Jesus Guzman Estrada	Plaintiff	David W. Dow, Esq. (#007377) Jennifer L. Ghidotti, Esq. (#033071) THE LAW OFFICES OF DAVID W. DOW 3104 E. Camelback Road, Suite 281 Phoenix, Arizona 85016 (602) 550-2951
City of Phoenix John Doe Hunnicutt Brandon Warner Carmina Theriault	Defendants	Sally A. Odegard, Esq. (#011646) HOLLOWAY ODEGARD & KELLY, PC 3020 E. Camelback Road, Suite 201 Phoenix, Arizona 85016 (602) 240-6670
Marcos Rodriguez	Defendant	John T. Masterson, Esq. (#007447) JONES, SKELTON & HOCHULI, PLC 40 N. Central Avenue, Suite 2700 Phoenix, Arizona 85004 (602) 263-7330

**2. Jury Demand:**

Was a Jury Demand made in another jurisdiction? Yes ☒ No ☐  
If "Yes," by which party and on what date?

Plaintiff

04/16/2019

**3. Answer:**

Was an Answer made in another jurisdiction? Yes ☐ No ☒  
If "Yes," by which party and on what date?

**4. Served Parties:**

The following parties have been served at the time this case was removed:

<u>Party</u>	<u>Date Served</u>	<u>Method of Service</u>
City of Phoenix	April 17, 2019	Hand Delivered
John Doe Hunnicutt / Brandon Warner / Carmina Theriault	April 18, 2019	Hand Delivered
Marcos Rodriguez	April 27, 2019	Hand Delivered

**5. Unserved Parties:**

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason Not Served</u>

**6. Nonsuited, Dismissed or Terminated Parties:**

Please indicate changes from the style of the papers from another jurisdiction and the reason for the change:

<u>Party</u>	<u>Reason for Change</u>

**7. Claims of the Parties:**

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claims</u>
Marcela de Jesus Guzman Estrada	Civil Rights Violations; False Imprisonment; False Imprisonment/ Invasion of Privacy; Deliberately Indifferent Policies, Practices,
	Customs, Training and Supervision; Intentional Infliction of Emotional Distress; Assault/Battery; Invasion of Privacy/
	Trespassing/Stalking; False Imprisonment; Aiding & Abetting; 42 U.S.C. Section 1985

**Pursuant to 28 USC § 1446(a) a copy of all process, pleadings, and orders served in another jurisdiction (State Court) shall be filed with this removal.**

# **EXHIBIT 1**



1 David W. Dow (SBA #007377)  
2 Jennifer L. Ghidotti #033071  
3 The Law Offices of David W. Dow  
4 3104 E. Camelback #281  
5 Phoenix, Arizona 85016  
6 602-550-2951  
7 Ddowlaw1@gmail.com  
8 *Attorneys for Plaintiff*

9 **SUPERIOR COURT OF ARIZONA**  
10 **MARICOPA COUNTY**

11 MARCELA de JESUS GUZMAN  
12 ESTRADA, an individual,

13 Plaintiff,

14 vs.

15 CITY OF PHOENIX, a municipality and  
16 jural entity, MARCOS RODRIGUEZ an  
17 individual acting under the color of law,  
18 JOHN DOE HUNNICUTT, an individual  
19 acting under the color of law,  
20 BRANDON WARNER, an individual  
21 acting under the color of law, and  
22 CARMINA THERIAULT, an individual  
23 acting under the color of law,

24 Defendants.

Case No. CV2019-004400  
SUMMONS

25 **WARNING: This is an official document from the court that affects your rights. Read this**  
26 **carefully. If you do not understand it, contact a lawyer for help.**

27 **FROM THE STATE OF ARIZONA TO: MARCOS RODRIGUEZ**

- 28
1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
  2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona

85003-2205 or Office of the Clerk of the Superior Court, 18380 North 40<sup>th</sup> Street, Phoenix, Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.

3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.

4. You can get a copy of the court papers filed in this case from the Petitioner at the address listed at the top of the preceding page, from the Clerk of the Superior Court's Customer Service Center at:

- 601 West Jackson, Phoenix, Arizona 85003, or
- 18380 North 40<sup>th</sup> Street, Phoenix, Arizona 85032
- 222 East Javelina Drive, Mesa, Arizona 85210
- 14264 West Tierra Buena Lane, Surprise, Arizona, 85374.

5. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least ten (10) days before your scheduled court date.

6. Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case at least ten (10) judicial days in advance of your scheduled court date.

SIGNED AND SEALED this date

CLERK OF COURT

By APR 16 2019  
Deputy Clerk  
CLERK OF THE SUPERIOR COURT  
S. SZAKACS  
DEPUTY CLERK

If you would like legal advice from a lawyer,  
Contact the Lawyer Referral Service at  
602-257-4424

or  
[www.maricopa-bar.org](http://www.maricopa-bar.org)

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Maricopa County Bar Association

David W. Dow (SBA #007377)  
Jennifer L. Ghidotti #033071  
The Law Offices of David W. Dow  
3104 E. Camelback #281  
Phoenix, Arizona 85016  
602-550-2951  
Ddowlaw1@gmail.com  
*Attorneys for Plaintiff*

ORIGINAL

RECEIVED  
CITY OF PHOENIX  
2019 APR 17 PM 3:24  
CITY ATTORNEYS OFFICE

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

Case No. CV2019-004400  
SUMMONS

MARCELA de JESUS GUZMAN  
ESTRADA, an individual,

Plaintiff,

vs.

CITY OF PHOENIX, a municipality and  
jural entity, MARCOS RODRIGUEZ an  
individual acting under the color of law,  
JOHN DOE HUNNICUTT, an individual  
acting under the color of law,  
BRANDON WARNER, an individual  
acting under the color of law, and  
CARMINA THERIAULT, an individual  
acting under the color of law,

Defendants.

CITY CLERK DEPT.  
2019 APR 17 AM 11:10

**WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.**

**FROM THE STATE OF ARIZONA TO: CITY OF PHOENIX**

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to

the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona 85003-2205 or Office of the Clerk of the Superior Court, 18380 North 40<sup>th</sup> Street, Phoenix, Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.

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- 222 East Javelina Drive, Mesa, Arizona 85210
- 14264 West Tierra Buena Lane, Surprise, Arizona, 85374.

5. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least ten (10) days before your scheduled court date.

6. Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case at least ten (10) judicial days in advance of your scheduled court date.

SIGNED AND SEALED this date

APR 16 2019

CLERK OF COURT  
JEFF FINE, CLERK

By

Deputy Clerk



*[Signature]*  
S. SZAKACS  
DEPUTY CLERK

If you would like legal advice from a lawyer,  
Contact the Lawyer Referral Service at  
602-257-4334

or  
[www.maricopa-law.com](http://www.maricopa-law.com)  
Sponsored by the  
Maricopa County Bar Association

RECEIVED  
CITY OF PHOENIX

2019 APR 18 PM 12:48

CITY ATTORNEY'S OFFICE

1 David W. Dow (SBA #007377)  
2 Jennifer L. Ghidotti #033071  
3 The Law Offices of David W. Dow  
4 3104 E. Camelback #281  
5 Phoenix, Arizona 85016  
6 602-550-2951  
7 Ddowlaw1@gmail.com  
8 *Attorneys for Plaintiff*

ORIGINAL

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

9 MARCELA de JESUS GUZMAN  
10 ESTRADA, an individual,

11 Plaintiff,

12 vs.

13 CITY OF PHOENIX, a municipality and  
14 jural entity, MARCOS RODRIGUEZ an  
15 individual acting under the color of law,  
16 JOHN DOE HUNNICUTT, an individual  
17 acting under the color of law,  
18 BRANDON WARNER, an individual  
19 acting under the color of law, and  
20 CARMINA THERIAULT, an individual  
21 acting under the color of law,

22 Defendants.

Case No.

SUMMONS

CV 2019-004400

23 **WARNING: This is an official document from the court that affects your rights. Read this  
24 carefully. If you do not understand it, contact a lawyer for help.**

25 **FROM THE STATE OF ARIZONA TO: JOHN DOE HUNNICUTT**

- 26 1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served  
27 on you with this "Summons".  
28 2. If you do not want a judgment or order taken against you without your input, you must file an  
"Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an  
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Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to

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3 Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa,  
4 Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane,  
5 Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at  
6 the address listed on the top of this Summons.

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17 Customer Service Center at:

- 18 • 601 West Jackson, Phoenix, Arizona 85003, or
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- 21 • 14264 West Tierra Buena Lane, Surprise, Arizona, 85374.

22 5. Requests for reasonable accommodation for persons with disabilities must be made to  
23 the office of the judge or commissioner assigned to the case, at least ten (10) days before your  
24 scheduled court date.

25 6. Requests for an interpreter for persons with limited English proficiency must be made to  
26 the office of the judge or commissioner assigned to the case at least ten (10) judicial days in  
27 advance of your scheduled court date.

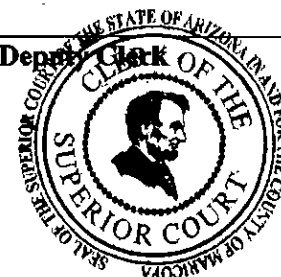
28 **JEFF FINE, CLERK**

SIGNED AND SEALED this date **APR 16 2019**

**CLERK OF COURT**

By \_\_\_\_\_

Deputy Clerk



*S. Szakacs*  
**S. SZAKACS**  
DEPUTY CLERK

If you would like legal advice from a lawyer,  
Contact the Lawyer Referral Service at  
602-257-4724

or

[www.maricopacourts.org](http://www.maricopacourts.org)

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Maricopa County Bar Association



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CITY OF PHOENIX

2019 APR 18 PM 12: 48

CITY ATTORNEY'S OFFICE

1 David W. Dow (SBA #007377)  
2 Jennifer L. Ghidotti #033071  
3 The Law Offices of David W. Dow  
4 3104 E. Camelback #281  
5 Phoenix, Arizona 85016  
6 602-550-2951  
7 Ddowlaw1@gmail.com  
8 *Attorneys for Plaintiff*

ORIGINAL

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

Case No. CV 2019-004400

9 MARCELA de JESUS GUZMAN  
10 ESTRADA, an individual,

SUMMONS

11 Plaintiff,

12 vs.

13 CITY OF PHOENIX, a municipality and  
14 jural entity, MARCOS RODRIGUEZ an  
15 individual acting under the color of law,  
16 JOHN DOE HUNNICUTT, an individual  
17 acting under the color of law,  
18 BRANDON WARNER, an individual  
19 acting under the color of law, and  
20 CARMINA THERIAULT, an individual  
21 acting under the color of law,

22 Defendants.

23 **WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.**

24 **FROM THE STATE OF ARIZONA TO: BRANDON WARNER**

- 25 1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served  
26 on you with this "Summons".
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6. Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case at least ten (10) judicial days in advance of your scheduled court date.

JEFF FINE, CLERK

APR 16 2019

SIGNED AND SEALED this date

CLERK OF COURT

By



*S. Szakacs*  
S. SZAKACS  
DEPUTY CLERK

If you would like legal advice from a lawyer,  
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Sponsored by the  
Maricopa County Bar Association



RECEIVED  
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2019 APR 19 PM 2:24

CITY ATTORNEY'S OFFICE

David W. Dow (SBA #007377)  
Jennifer L. Ghidotti #033071  
The Law Offices of David W. Dow  
3104 E. Camelback #281  
Phoenix, Arizona 85016  
602-550-2951  
Ddowlaw1@gmail.com  
*Attorneys for Plaintiff*

ORIGINAL

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

Case No. CV 2019-004400

MARCELA de JESUS GUZMAN  
ESTRADA, an individual,

SUMMONS

Plaintiff,

vs.

CITY OF PHOENIX, a municipality and  
jural entity, MARCOS RODRIGUEZ an  
individual acting under the color of law,  
JOHN DOE HUNNICUTT, an individual  
acting under the color of law,  
BRANDON WARNER, an individual  
acting under the color of law, and  
CARMINA THERIAULT, an individual  
acting under the color of law,

Defendants.

**WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.**

**FROM THE STATE OF ARIZONA TO: CARMINA THERIAULT**

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona

85003-2205 or Office of the Clerk of the Superior Court, 18380 North 40<sup>th</sup> Street, Phoenix, Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.

3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.

4. You can get a copy of the court papers filed in this case from the Petitioner at the address listed at the top of the preceding page, from the Clerk of the Superior Court's Customer Service Center at:

- 601 West Jackson, Phoenix, Arizona 85003, or
- 18380 North 40<sup>th</sup> Street, Phoenix, Arizona 85032
- 222 East Javelina Drive, Mesa, Arizona 85210
- 14264 West Tierra Buena Lane, Surprise, Arizona, 85374.

5. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least ten (10) days before your scheduled court date.

6. Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case at least ten (10) judicial days in advance of your scheduled court date.

APR 16 2019

JEFF FINE, CLERK

SIGNED AND SEALED this date

CLERK OF COURT

By



S. SZAKACS  
DEPUTY CLERK

If you would like legal advice from a lawyer,  
Contact the Lawyer Referral Service at  
602-257-4224

or

[www.maricopacourts.org](http://www.maricopacourts.org)

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Maricopa County Bar Association



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**COPY**

APR 16 2019



CLERK OF THE SUPERIOR COURT  
S. SZAKACS  
DEPUTY CLERK

**SUPERIOR COURT OF ARIZONA**  
**MARICOPA COUNTY**

Case No. CV2019-004400

MARCELA de JESUS GUZMAN  
ESTRADA, an individual,

VERIFIED COMPLAINT

Plaintiff,

vs.

CITY OF PHOENIX, a municipality and  
jural entity, MARCOS RODRIGUEZ an  
individual acting under the color of law,  
JOHN DOE HUNNICUTT, an individual  
acting under the color of law,  
BRANDON WARNER, an individual  
acting under the color of law, and  
CARMINA THERIAULT, an individual  
acting under the color of law,

Defendants.

Plaintiff Marcela de Jesús Guzmán Estrada, hereby alleges as her Complaint the  
following:

1. Plaintiff Marcela de Jesús Guzmán Estrada is an individual and was a resident of  
Maricopa County, Arizona for all relevant times.
2. Defendant City of Phoenix is a municipality and jural entity and responsible

1 party for the actions of individuals acting in the scope of employment. It may be  
2 held liable both independently and vicariously, as permitted by federal and state  
3 law, for the wrongful conduct of its officers, employees, agents, districts, and  
4 divisions/sub-divisions, including the City of Phoenix Police Department and its  
5 officers and employees.  
6

7 3. Defendant Marcos Rodriguez is an individual that was acting under the color of  
8 law and was resident of Maricopa County, Arizona at all relevant times.  
9

10 4. Defendant John Doe (Sgt.) Hunnicutt is an individual that was acting under the  
11 color of law and was resident of Maricopa County, Arizona at all relevant times.  
12

13 5. Defendant Brandon Warner is an individual that was acting under the color of  
14 law and was resident of Maricopa County, Arizona at all relevant times.

15 6. Defendant Carmina Theriault is an individual that was acting under the color of  
16 law and was resident of Maricopa County, Arizona at all relevant times.  
17

18 7. All individual defendants were acting within the scope of their employment  
19 under Arizona and federal law at the time of the actions set for the herein.

20 8. Jurisdiction is appropriate in this Court pursuant to the United States and  
21 Arizona Constitutions, A.R.S. §§12-122, 12-123, federal law and common law.  
22

23 9. Venue is appropriate in this Court as the events occurred in Maricopa County,  
24 Arizona.  
25

26 10. Plaintiff has complied with A.R.S. § 12-821.01 and served the Defendants with a  
27 Notice of Claim on January 15, 2019 and thus 60 days has passed.

28 11. Plaintiff hereby demands a jury trial in this matter and states that this is a Tier 3

1 case.

2 12. This matter involves state law and the amount in controversy does exceed  
3 \$50,000.00 and thus is not subject to the arbitration rules.  
4

5 **Facts General to All Counts**

6 13. Plaintiff Marcela de Jesús Guzmán Estrada ("Ms. Guzman") is an individual and  
7 at the time of the events set forth herein, was a resident of Phoenix, Arizona who  
8 was within the service area of the Phoenix Police Department.  
9

10 14. On Sunday, August 26, 2018, after church, Ms. Guzman was driving her car to  
11 the grocery store when a police vehicle abruptly pulled out onto the road. The  
12 abrupt action of the officer caused her to swerve into the next lane to avoid being  
13 hit by the patrol vehicle. Ms. Guzman noticed the officer was on his cellphone.  
14

15 15. Ms. Guzman continued driving to the store and noticed the officer had pulled  
16 behind her car and soon after, the police officer pulled his vehicle beside Ms.  
17 Guzman. He rolled down his window and was signaling to her so she lowered  
18 her window.  
19

20 16. The officer, later determined to be Defendant Marcos Rodriguez, apologized to  
21 her and she told him it was fine, and she tried to leave but he motioned for her to  
22 pull over. There were no patrol lights or siren, but she went ahead and pulled off  
23 the road onto a side street.  
24

25 17. Defendant Rodriguez pulled up to Ms. Guzman with his window down, facing  
26 opposite directions, and he began talking to Ms. Guzman. She looked at his  
27 badge to get his name and when he realized English was not her first language,  
28

1 he started speaking in Spanish.

2 18. Defendant Rodriguez invited Ms. Guzman to coffee as a peace offering for  
3 scaring her. Ms. Guzman then saw another patrol vehicle behind his with a  
4 female officer in the driver's seat.  
5

6 19. As Ms. Guzman was confused and frightened, she asked Defendant Rodriguez if  
7 his partner would be joining them, but he said they had been called to an  
8 emergency.  
9

10 20. Ms. Guzman declined Officer Rodriguez's invitation to coffee due to the  
11 emergency call mentioning that the emergency call should be more of a priority,  
12 and he said they could still go to coffee without his partner. Defendant  
13 Rodriguez stated his partner "knows how I am."  
14

15 21. Ms. Guzman again said, "No," to coffee and Defendant Rodriguez asked her  
16 what type of work she did, so she gave him her business card. He then asked  
17 Ms. Guzman if she lived in the area and she said she did, and he stated that he  
18 patrols the area.  
19

20 22. Defendant Rodriguez took the business card and left along with the second  
21 officer and her vehicle.  
22

23 23. Soon after, Defendant Rodriguez began to contact Ms. Guzman via text message  
24 and would ask if things were well with her and how she was doing. He asked if  
25 they could talk, and just as she responded, he told her that he was outside of her  
26 apartment and to open her door.  
27

28 24. Ms. Guzman was very uncomfortable because she had not given him her home

1 address or invited him over.

2 25. Ms. Guzman opened her front door but left the security screen closed and locked  
3 and asked Defendant Rodriguez what he was doing at her home. Defendant  
4 Rodriguez was in uniform and holding the computer from his patrol vehicle and  
5 Ms. Guzman figured it was related to the incident where he almost hit her.  
6

7 26. Defendant Rodriguez said he wanted to apologize in person, so Ms. Guzman let  
8 him into her home and asked why he was there. This conversation was at  
9 approximately 1:00 pm on August 26th, the same day of the roadside incident.  
10 Ms. Guzman believed Defendant Rodriguez was there to do a report regarding  
11 the incident earlier that day.  
12

13 27. Defendant Rodriguez then set up his computer on Ms. Guzman's dining table  
14 and started commenting that they should be friends and that she needed a friend  
15 like him because he is a police officer and sees she lives alone.  
16

17 28. Defendant Rodriguez stated that if there was ever an emergency, she can call  
18 him. During this conversation, Officer Rodriguez began making sexual  
19 insinuations. This made Ms. Guzman feel even more uncomfortable.  
20

21 29. Defendant Rodriguez's comments frightened Ms. Guzman. He sat at her table  
22 and again asked if she would like for him to kiss her.  
23

24 30. Ms. Guzman noticed Defendant Rodriguez was wearing a wedding band and  
25 commented on him being married and that it goes against her values to have  
26 contact with a married man. She told him, no, she did not want him to kiss her.  
27

28 31. Defendant Rodriguez then showed Ms. Guzman a picture of his wife and said



1 she is boring, that his marriage is dead and there's no passion. He then asked if  
2 he could kiss her and she said no.

3 32. Defendant Rodriguez stood up from the table and began making comments about  
4 how Puerto Ricans such as himself are very passionate and he wanted Ms.  
5 Guzman to let him show her how passionate he is.

6  
7 33. Defendant Rodriguez then forcibly grabbed his genitals through his uniform  
8 pants asking Ms. Guzman "don't you want some of this?" He then moved his  
9 pelvis towards her and hovered over her as she was seated at the dining room  
10 table.

11  
12 34. Defendant Rodriguez had braces, kept licking his mouth, and told Ms. Guzman  
13 he could teach her how to kiss as he has passion. Ms. Guzman became extremely  
14 uncomfortable and intimidated, so she told him she had to go to the movies and  
15 that he needed to leave.

16  
17  
18 35. Ms. Guzman told Defendant Rodriguez that her friend was waiting and if she did  
19 not show up the friend would go to the apartment to check on her.

20 36. While at Ms. Guzman's house, Defendant Rodriguez talked about anal sex,  
21 talked about digitally penetrating her anus during sex, demonstrating with his  
22 fingers, and asked if she had ever tried anal sex.

23  
24 37. When Ms. Guzman told Defendant Rodriguez to stop talking the way he was, he  
25 said he had anal sex and he liked it and then began describing it.

26  
27 38. Defendant Rodriguez told Ms. Guzman that he can do that to her and could show  
28 her how it's done as he's the police and can do what he wants to her.

- 1 39. At one point, Defendant Rodriguez unfastened his uniform vest and as he headed  
2 to the door, he put his computer down on the bench by the entryway and started  
3 to refasten his vest. As he was doing this, he asked Ms. Guzman again if she was  
4 sure she did not want to kiss him before he left and Ms. Guzman said, "No."  
5
- 6 40. Defendant Rodriguez continued to ask sexual questions and Ms. Guzman pushed  
7 his chest away from her, telling him he needed to go. After Ms. Guzman hurt  
8 her fingers on his vest as she was pushing him away, she asked what that was  
9 that hurt her.  
10
- 11 41. Defendant Rodriguez asked if she wanted to see it and started to unzip his vest.  
12 She told him she didn't want to see it and then saw that what he was pulling from  
13 his vest was a small firearm.  
14
- 15 42. Defendant Rodriguez asked if Ms. Guzman wanted to know why he had the gun  
16 there, and she again told him no. Ms. Guzman told Officer Rodriguez that guns  
17 made her uncomfortable and not to show his firearms to her.  
18
- 19 43. Defendant Rodriguez then talked about how if a delinquent on the street were to  
20 disarm him, he could grab them, demonstrating on Ms. Guzman by putting his  
21 arm around her neck as he pointed the gun at her face and laughed. She then told  
22 him do not point the gun at me as I have a fear of guns. He continued to laugh  
23 and then he put the gun to her ribs and she felt the gun on her ribs and left torso.  
24 This action made her very afraid but finally he left her apartment.  
25
- 26 44. Defendant Rodriguez then continued communicating with Ms. Guzman via text,  
27 but she would not respond except for one time when she told him he should  
28

1 appreciate his career and family.

2 45. Defendant Rodriguez then stated he went by Ms. Guzman's home, but he didn't  
3 see her. He told her that if she ever had an emergency throughout the night, she  
4 was going to need him, and that she needed a man around. He said he is the  
5 police, he patrols this area and that he takes care of his city.  
6

7 46. Defendant Rodriguez made comments in a dirty, sexual way and disclosed  
8 details to Ms. Guzman about his life and childhood how his mother left his  
9 family and him and his brother were left with his father who was an officer in  
10 Puerto Rico but drank excessively and abused his power.  
11

12 47. There are text messages to Ms. Guzman from Defendant Rodriguez that  
13 corroborate the contacts.  
14

15 48. Ms. Guzman has become extremely anxious and scared for her safety, having to  
16 move from her apartment so Defendant Rodriguez cannot find her.  
17

18 49. Ms. Guzman is aware of various tape recordings including ones by Defendant  
19 Theriault where a confrontation call was attempted.  
20

21 50. Defendants Hunnicutt and Warner talked to Ms. Guzman on the phone. They  
22 asked her to come to the office. She went there the next day to downtown  
23 Phoenix and met with her. They acted as if they were going to help, took her  
24 information but they never provided her any legal help.  
25

26 51. After appearing to want to assist, Defendant Theriault became rude, stating that  
27 Ms. Guzman watched many action movies.  
28

52. Defendant Theriault began to scream at Ms. Guzman in a strong and demanding

1 tone accusing her of just wanting money from police department.

2 53. Ms. Guzman never imagined that it was possible for a police officer to abuse  
3 their power and take an individual's freedom through aggressive and intimidating  
4 actions geared toward unwanted sexual advances. It has been a nightmare and it  
5 has changed Ms. Guzman's life radically resulting in her having to take  
6 medication for depression, anxiety and insomnia, which affects her sugar levels.

7  
8 54. Ms. Guzman has complications with her eyes as a result of the anxiety. She had  
9 laser surgery and is undergoing a painful treatment of injections every month in  
10 each eye. Her right eye is almost blind, because of the stress and high levels of  
11 sugar.  
12

13  
14 55. Ms. Guzman has lost almost all of her material goods because she had to leave  
15 them in the trash in order to find places to sleep and look for somewhere to live.

16 56. Ms. Guzman lost valuable friendships because they do not want to interact with  
17 her at this time in her life for fear that someone will follow her or that someone  
18 will do something to her.  
19

20 57. Ms. Guzman lost half of her clients in her housecleaning business because she  
21 cannot concentrate and sometimes is in a corner crying desperately with a panic  
22 attack.  
23

24 58. Ms. Guzman cannot be in public places, she cannot sleep, nightmares wake her  
25 up, and throws-up out of fear and despair. She had to have her medications  
26 adjusted.  
27

28 59. For the first time in her life, Ms. Guzman needed to see a psychiatrist for

1 counseling. The psychiatrist suggested very strong medication and also  
2 suggested concentration therapies.

3 60. Ms. Guzman had to leave her volunteer work after more than 7 years because  
4 she did not feel able to help others. She has helped over 300 women in the  
5 divorce and emotional abuse group prior to this experience.  
6

7 61. Defendants' actions caused her to suffer from Post-Traumatic Stress Disorder  
8 (PTSD).  
9

10 62. Defendant City of Phoenix is responsible for the actions of its officers and failed  
11 to properly respond when the matter was reported to its agents including the  
12 individual Defendants.  
13

14 63. Ms. Guzman has suffered damages due to the actions of Defendants.  
15

16 COUNT ONE

17 VIOLATION OF 42 U.S.C. §1983

18 (Individual Defendants)

19 64. Plaintiff hereby incorporates paragraphs 1-63 as to this Count  
20

21 65. Defendant is liable for civil damages based on their conduct violating "clearly  
22 established statutory or constitutional rights of which a reasonable person would  
23 have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).  
24

25 66. A federal right has been violated by the Defendant.

26 67. The federal right(s) was/were clearly established at the time of the violation.  
27 *Pearson v. Callahan*, 555 U.S. 223, 232 (2009)  
28

68. 42 U.S.C. § 1983 provides that: "Every person, who under color of any statute,

1 ordinance, regulation, custom or usage of any state or territory or the District of  
2 Columbia subjects or causes to be subjected any citizen of the United States or  
3 other person within the jurisdiction thereof to the deprivation of any rights,  
4 privileges or immunities secured by the constitution and law shall be liable to the  
5 party injured in an action at law, suit inequity, or other appropriate proceeding  
6 for redress . . .”  
7

8  
9 69. Plaintiff in this action is a citizen of the United States and Defendants were  
10 police officers and are persons for purposes of 42 U.S.C. § 1983.

11 70. Defendants were acting under the color of state law in their capacity as Phoenix  
12 police officers and their acts or omissions were conducted within the scope of  
13 their official duties or employment.  
14

15 71. The law was sufficiently clear that every reasonable official would understand  
16 that what he or she is doing is unlawful.  
17

18 72. Plaintiff had the clearly established constitutional right to be free from false  
19 imprisonment and invasion of privacy under the Fourth Amendment and in  
20 violation of due process under the Fourteenth Amendment.  
21

22 73. Defendants violated Plaintiff's Fourth and Fourteenth Amendment rights to be  
23 free from false imprisonment and invasion of privacy when Defendant  
24 Rodriguez stalked and falsely imprisoned Plaintiff and Defendant Theriault  
25 failed to act to stop the actions.  
26

27 74. Defendants' conduct was engaged in with intent to cause injury, was wrongful  
28 conduct motivated by spite or ill will or the Defendants acted to serve their own

1 interests, having reason to know and consciously disregarding a substantial risk  
2 that his conduct might significantly injure the rights of Plaintiff.

3 75. Defendants Hunnicut and Warner were supervisors and had the ability to take  
4 action to prevent Defendant Rodriguez's conduct but they intentionally ignored  
5 the concerns of Plaintiff and allowed the stalking behavior to continue.  
6

7 76. Defendants Hunnicuit and Warner had actual or constructive knowledge that  
8 Defendant Rodriguez was engaged in conduct that posed a pervasive and  
9 unreasonable risk of constitutional injury to citizens like the plaintiff; their  
10 response to that knowledge was so inadequate as to show deliberate indifference  
11 to or tacit authorization of the alleged offensive practices, and that there was an  
12 affirmative causal link between the supervisor's inaction and the particular  
13 constitutional injury suffered by Plaintiff.  
14

15 77. All the individual defendants are liable under §1983 action by failure to take  
16 reasonable steps to attempt to stop the unlawful conduct by a fellow officer.  
17  
18 *Sanchez v. City of Chicago*, 700 F. 3d 919 (7th Cir. 2012).  
19

20 78. It is not standard procedure to assist a civilian in revenge in exchange for  
21 personal favors, causing long term emotional distress and PTSD. Officer  
22 Rodriguez clearly abused his position of power as Phoenix Police Officer for his  
23 personal satisfaction. Defendants Hunnicut and Warner acted as if they were  
24 going to help, took Ms. Guzman's information but they never provided her any  
25 legal help. Defendant Theriault initially began to assist and then never pursued  
26 the matters.  
27  
28

1 79. Plaintiff was damaged by Defendants' conduct.

2  
3 COUNT TWO

4 VIOLATION OF 42 U.S.C. §1985

5  
6 (All Individual Defendants)

7 80. Plaintiff hereby incorporates paragraphs 1-79 as to this Count

8  
9 81. In covering up Defendant Rodriguez's conduct through failing to report his  
10 conduct and trying to blame Plaintiff, Defendants Hunnicut, Theriault and  
11 Warner conspired together to deprive Plaintiff of her constitutional rights.

12 82. In doing so, they harmed Plaintiff by reporting that she was lying about the  
13 incidents and by Defendant Rodriguez assaulting, harassing and falsely  
14 imprisoning and causing invasion of privacy to Plaintiff.

15  
16 83. Defendants worked together to protect Defendant Rodriguez because of their  
17 race based animus against Plaintiff, a person of Puerto Rican descent.

18  
19 84. Plaintiff was damaged by the Defendants' conduct.

20  
21 COUNT THREE

22 42 U.S.C. § 1983 – Deliberately Indifferent Policies, Practices, Customs,  
23 Training, and Supervision in violation of the Fourth, Fourteenth, and First  
24 Amendments and in violation of 42 U.S.C. § 1981  
(City of Phoenix only)

25 85. Plaintiff hereby incorporates paragraphs 1-84 as to this Count.

26 86. Defendant City of Phoenix established policies, procedures, customs, and/or  
27 practices for the police officers that exhibited deliberate indifference to the  
28



1 constitutional rights of citizen which were moving forces behind and  
2 proximately caused the violations of Plaintiff's constitutional and federal rights  
3 which resulted from a conscious or deliberate choice to follow a course of action  
4 from among various available alternatives.  
5

6 87. Defendant's policies are the moving force behind the constitutional violations.  
7 The final policymakers of the City of Phoenix had actual or constructive  
8 knowledge of these unconstitutional practices, yet failed to take any reasonable  
9 or adequate steps to remedy them.  
10

11 88. The false imprisonment, assault, inadequate/negligent training of officers or  
12 other adopted municipality custom demonstrating a deliberate indifference to the  
13 Constitutional rights of its citizenry.  
14

15 89. In addition, under a ratification theory, Defendant delegated authority to engage  
16 in unlawful conduct and Defendant as the final policymaker's endorsement of  
17 the decisions and actions of Defendants to engage in unlawful conduct confirms  
18 clear that the policy was in effect at the time of the incident and was the moving  
19 force for Defendants' unconstitutional acts.  
20

21 90. The deliberately indifferent training and supervision provided by Defendant City  
22 of Phoenix in allowing officers to pull over citizens for no reason, go to a  
23 citizen's home for the purpose of wanting sexual favors, and stalking a citizen is  
24 a violation of Plaintiff's constitutional rights under the Fourth and 14th  
25 Amendments to the US Constitution.  
26

27 91. Defendant is also be liable for the acts of an employee who is not a final decision  
28

1 maker, so long as an actual final decision maker demonstrates that authority to  
2 make the decision lay with the subordinate by approving the subordinate's  
3 decision and the basis for it.

4  
5 92. Further, a municipality, may be liable under § 1983 for failing to train employees  
6 when the failure both can be traced to the injury suffered by a plaintiff and  
7 amounts to deliberate indifference to the rights of persons with whom the police  
8 come into contact.  
9

10 93. Phoenix Police Department has training for its officers regarding abuse and/or  
11 use of power. When the incident was reported, officers failed to properly  
12 investigate the allegations.  
13

14 94. It is not standard procedure to assist a civilian in revenge in exchange for  
15 personal favors, causing long term emotional distress and PTSD. Officer  
16 Rodriguez clearly abused his position of power as Phoenix Police Officer for his  
17 personal satisfaction. These facts are clear abuses of power and a failure of the  
18 Phoenix Police Departments' duty to properly train and supervise its officers.  
19 Defendants Hunnicutt and Warner acted as if they were going to help, took Ms.  
20 Guzman's information but they never provided her any legal help. Detective  
21 Theriault initially began to assist and then never pursued the matters.  
22  
23

24 95. Due to inadequate training, supervision, screening in hiring and/or other  
25 shortcomings within Phoenix Police Department's policies and procedures, these  
26 officers have perpetuated distrust and fear of the police. The actions of these  
27 officers are the result of a false belief that officers are above the law. Ms.  
28

1 Guzman has fallen victim to Phoenix Police Department's incompetence. The  
2 reprehensible actions while performing their duties as Phoenix police officers is  
3 outrageous.

4  
5 96. Plaintiff has been damaged by Defendants' conduct.

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COUNT FOUR

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

97. Plaintiff hereby incorporates paragraphs 1-96 as to this Count.

98. Defendants' conduct was extreme and outrageous, they either intended to cause emotional distress or recklessly disregarded the near certainty that such distress would result from their conduct, and their actions caused Plaintiff to suffer severe emotional distress. *Ford v. Revlon, Inc.*, 153 Ariz. 38, 43 (1987).

99. Plaintiff suffered anxiety that results in physical symptoms constituting severe emotional distress. *Ford*, 153 Ariz. at 41; *see also Pankratz v. Willis*, 155 Ariz. 8, 12, 17 (App. 1987).

100. The actions of Defendant Rodriguez in stalking Plaintiff, assaulting Plaintiff, falsely imprisoning Plaintiff and sexually harassing Plaintiff were extreme and outrageous.

101. The actions of Defendants Hunnicut, Warner and Theriault in allowing the conduct of Defendant Rodriguez to continue were extreme and outrageous.

102. Plaintiff has been damaged by the emotional distress caused by Defendants.

COUNT FIVE

ASSAULT/BATTERY

(Defendant Rodriguez)

103. Plaintiff hereby incorporates paragraphs 1-102 as to this Count.

104. A harmful or offensive contact with a person, resulting from an act intended to cause the plaintiff to suffer such a contact, is a battery. An intentional act requires the actor to either consciously desire the physical result of his or her act, whatever the likelihood of that result happening from his conduct; or know that the result is substantially certain to follow from his or her conduct, whatever his or her desire may be as to that result.

105. Defendant battered/assaulted Plaintiff when he came into her house, touched her, grabbed her, and/or pointed a gun at her, with the intent to cause injury and in fact did cause injury.

106. Plaintiff was damaged by conduct of the Defendants.

COUNT SIX

INVASION OF PRIVACY/TRESPASS/STALKING

(Defendant Rodriguez)

107. Plaintiff hereby incorporates paragraphs 1-106 as to this Count.

108. Defendant committed invasion of privacy and/or trespass and/or stalking when he remained in the Plaintiff's home and assaulted her, made crude sexual comments and when he continued to stalk her on the phone and by going to her home.

109. Plaintiff was damaged by the Defendants' conduct.

COUNT SIX

FALSE IMPRISONMENT

(Defendant Rodriguez)

110. Plaintiff hereby incorporate paragraphs 1-109 as to this Count.

111. False imprisonment is the detention of a person without consent or lawful authority. *Slade v. City of Phoenix*, 112 Ariz. 298, 300, 541 P.2d 550, 552 (1975).

112. Defendant grabbed Plaintiff and held her then put a gun to her without her consent and without legal justification for the detention.

113. Plaintiff was damaged by Defendants' conduct.

COUNT SEVEN

AIDING AND ABETTING

(Defendants Hunnicut, Warner and Theriault)

114. Plaintiff hereby incorporate paragraphs 1-114 as to this Count.

115. Aiding and abetting a tort requires the primary tortfeasor has committed a tort causing injury to the plaintiff, the defendant knows that the primary tortfeasor's conduct constitutes a breach of duty, and the defendant substantially assists the primary tortfeasor in achieving the breach.

116. Here, the Defendants knew of Defendant Rodriguez's conduct and covered it up allowing his conduct to continue.

117. Defendants' actions caused Plaintiff damages.

**Punitive Damages (Defendant Rodriguez)**

118. When Defendant Rodriguez put his gun in Ms. Guzman's face and in her ribs,

1 squeezed her to his body, and made all of the sexual comments, she became  
2 overcome with fear and anguish, she has panic attacks, depression, stress, and  
3 even was suicidal due to the fear.

4  
5 119. Defendant acted with an evil mind. Defendant consciously pursued a  
6 course of conduct knowing that it created a substantial risk of significant  
7 harm to others.  
8

9 **PRAYER FOR RELIEF**

10  
11 WHEREFORE, for the foregoing reasons, Plaintiff requests the following:

12 A. Damages, both compensatory and special damages caused by the conduct  
13 of the Defendants in an amount to be determined at trial;  
14

15 B. Punitive damages against the individual defendants in an amount to be  
16 determined at trial;  
17

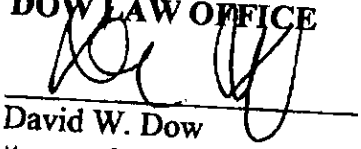
18 C. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to recover  
19 her reasonable attorneys' fees and costs, including expert fees; and  
20

21 D. Any other such and or further relief as may be justified under the  
22 applicable facts and circumstances.  
23  
24  
25  
26  
27  
28

Dated this 15<sup>th</sup> day of April, 2019.

**DOW LAW OFFICE**

BY:

  
David W. Dow  
Attorney for Plaintiff

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1 OATH OR AFFIRMATION AND VERIFICATION

2 I swear or affirm that the information in this Verified Complaint is true and correct  
3 under penalty of perjury.

4 Signature *Marcela de Jesús Guzmán Estrada*  
5 Marcela de Jesús Guzmán Estrada

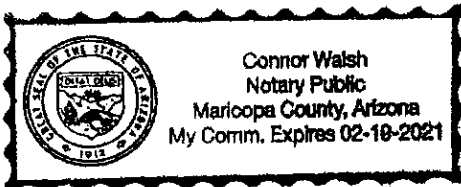
6 Dated this 11 day of April, 2019.

7 STATE OF ARIZONA )  
8 )  
9 COUNTY OF MARICOPA)

10 Subscribed and sworn to or affirmed before me by Marcela de Jesús Guzmán Estrada  
11 this 11<sup>th</sup> day of April, 2019.

12  
13 Notary Stamp

*Connor Walsh*  
14 By: *Connor Walsh*  
15 Notary Public







**COPY**

APR 13 2019



CLERK OF THE SUPERIOR COURT  
S. SZAKACS  
DEPUTY CLERK

David W. Dow (SBA #007377)  
Jennifer L. Ghidotti #033071  
The Law Offices of David W. Dow  
3104 E. Camelback #281  
Phoenix, Arizona 85016  
602-550-2951  
Ddowlaw1@gmail.com  
*Attorneys for Plaintiff*

**SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY**

Case No. CV 2019-004400

MARCELA de JESUS GUZMAN  
ESTRADA, an individual,

Plaintiff,

vs.

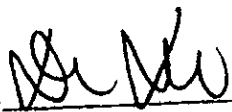
CITY OF PHOENIX, a municipality and  
jural entity, MARCOS RODRIGUEZ an  
individual acting under the color of law,  
JOHN DOE HUNNICUTT, an individual  
acting under the color of law,  
BRANDON WARNER, an individual  
acting under the color of law, and  
CARMINA THERIAULT, an individual  
acting under the color of law,

Defendants.

**CERTIFICATE REGARDING  
ARBITRATION**

The undersigned certifies that the largest award sought by the Plaintiff, excluding interest, attorneys' fees, and costs does exceed limits set by Local Rule for compulsory arbitration. This case is not subject to the Uniform Rules of Procedure for Arbitration.

Dated this 15<sup>th</sup> day of April, 2019.

By:   
David W. Dow  
Attorney for Plaintiff



**COPY**

1 David W. Dow (SBA #007377)  
2 Jennifer L. Ghidotti #033071  
3 The Law Offices of David W. Dow  
4 3104 E. Camelback #281  
5 Phoenix, Arizona 85016  
6 602-550-2951  
7 Ddowlaw1@gmail.com  
8 *Attorneys for Plaintiff*



APR 13 2019

CLERK OF THE SUPERIOR COURT  
S. SAKAGUCHI  
DEPUTY CLERK

**SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY**

9 MARCELA de JESUS GUZMAN  
10 ESTRADA, an individual,

11 Plaintiff,

12 vs.

13 CITY OF PHOENIX, a municipality and  
14 jural entity, MARCOS RODRIGUEZ an  
15 individual acting under the color of law,  
16 JOHN DOE HUNNICUTT, an individual  
17 acting under the color of law,  
18 BRANDON WARNER, an individual  
19 acting under the color of law, and  
20 CARMINA THERIAULT, an individual  
21 acting under the color of law,

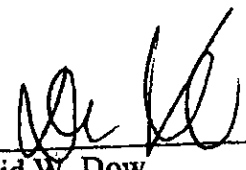
22 Defendants.

Case No. CV2019-004400

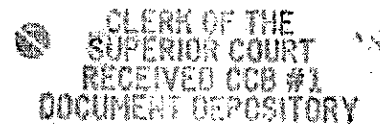
JURY TRIAL DEMAND

23 Plaintiff, by and through undersigned counsel, hereby demands a jury trial in this  
24 matter pursuant to Arizona law.

25 Dated this 15<sup>th</sup> day of April, 2019.

26 By:   
27 David W. Dow  
28 Attorney for Plaintiff





IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

2020 APR 29 AM 11:07

IN RE THE MATTER OF:

MARCELA DE JESUS GUZMAN

VS.

CITY OF PHOENIX, et al

AFFADAVIT OF SERVICE  
CV2019-004400

The undersigned being authorized to serve certifies under penalty of perjury: on the 17th day of April 2019, I received:

SUMMONS  
VERIFIED COMPLAINT  
JURY TRIAL DEMAND  
CERTIFICATE REGARDING ARBITRATION

from the Law Offices of David Dow, for Marcela de Jesus Guzman, and in each instance, I personally served a copy of each document listed above upon City of Phoenix, by serving Pam Rieckhoff, Special Deputy City Clerk and stated authorized to accept, a Caucasian female, about 55 years old, 5'7", about 150 pounds with brown hair, at the place and time listed below,

ADDRESS: 200 W. Washington St.  
CITY/STATE/ZIP: Phoenix, AZ 85003  
DATE: April 17, 2019 TIME: 11:10 AM

I certify under penalty of perjury the foregoing is true and correct. Executed on April 29, 2019.

A handwritten signature in black ink, appearing to read "Gary J. Viscum".

Gary J. Viscum  
MC 8532

CLERK OF THE  
SUPERIOR COURT  
RECEIVED CCB #1  
DOCUMENT DEPOSITORY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA  
2020 APR 29 AM 11:08

IN RE THE MATTER OF:

MARCELA DE JESUS GUZMAN

VS.

CITY OF PHOENIX, et al

AFFADAVIT OF SERVICE  
CV2019-004400

The undersigned being authorized to serve certifies under penalty of perjury: on the 17th day of April 2019, I received:

SUMMONS

VERIFIED COMPLAINT

JURY TRIAL DEMAND

CERTIFICATE REGARDING ARBITRATION


from the Law Offices of David Dow, for Marcela de Jesus Guzman, and in each instance, I personally served a copy of each document listed above upon Officer Marcos Rodriguez, by personally serving him. Officer Rodriguez is a Hispanic male, 30 years old, 5'10", about 160 pounds with black hair, at the place and time listed below,

ADDRESS: 1489 N Dysart Rd.

CITY/STATE/ZIP: Avondale, AZ 85323

DATE: April 27, 2019 TIME: 9:11 AM

I certify under penalty of perjury the foregoing is true and correct. Executed on April 29, 2019.

  
Gary J. Visdum  
MC 8532

CLERK OF THE  
SUPERIOR COURT  
RECEIVED CCB #1  
DOCUMENT DEPOSITORY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA APR 29 AM 11:08

IN RE THE MATTER OF:

MARCELA DE JESUS GUZMAN

VS.

CITY OF PHOENIX, et al

AFFADAVIT OF SERVICE  
CV2019-004400

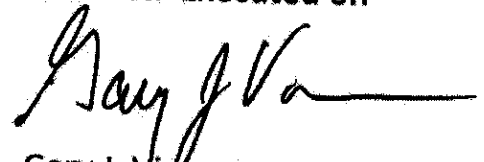
The undersigned being authorized to serve certifies under penalty of perjury: on the 17th day of April 2019, I received:

SUMMONS  
VERIFIED COMPLAINT  
JURY TRIAL DEMAND  
CERTIFICATE REGARDING ARBITRATION

from the Law Offices of David Dow, for Marcela de Jesus Guzman, and in each instance, I personally served a copy of each document listed above upon Detective Carmina Theriault, by personally serving her. Detective Theriault is a Caucasian female, 35 years old, 5'6", about 150 pounds with brown hair, at the place and time listed below,

ADDRESS: 2120 N. Central Ave.  
CITY/STATE/ZIP: Phoenix, AZ 85004  
DATE: April 18, 2019 TIME: 9:43 AM

I certify under penalty of perjury the foregoing is true and correct. Executed on April 29, 2019.



Gary J. Viscum  
MC 8532



CLERK OF THE  
SUPERIOR COURT  
RECEIVED CCB #1  
DOCUMENT DEPOSITORY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA 2020 APR 29 AM 11:08

IN RE THE MATTER OF:

MARCELA DE JESUS GUZMAN

VS.

CITY OF PHOENIX, et al

AFFADAVIT OF SERVICE

CV2019-004400

The undersigned being authorized to serve certifies under penalty of perjury: on the 17th day of April 2019, I received:

SUMMONS

VERIFIED COMPLAINT

JURY TRIAL DEMAND

CERTIFICATE REGARDING ARBITRATION


from the Law Offices of David Dow, for Marcela de Jesus Guzman, and in each instance, I personally served a copy of each document listed above upon Sgt. Chad Hunnicutt, by personally serving him. Sgt. Hunnicutt is a Caucasian male, 40 years old, 6'2", about 200 pounds with grey hair, at the place and time listed below,

ADDRESS: 17 S. 2<sup>nd</sup> Ave.

CITY/STATE/ZIP: Phoenix, AZ 85003

DATE: April 18, 2019 TIME: 9:21 AM

I certify under penalty of perjury the foregoing is true and correct. Executed on April 29, 2019.

  
Gary J. Viscum  
MC 8532

CLERK OF THE  
SUPERIOR COURT  
RECEIVED COB #1  
DOCUMENT DEPOSITORY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

2020 APR 29 AM 11:08

IN RE THE MATTER OF:

MARCELA DE JESUS GUZMAN

VS.

CITY OF PHOENIX, et al

AFFADAVIT OF SERVICE  
CV2019-004400

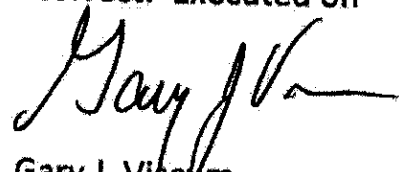
The undersigned being authorized to serve certifies under penalty of perjury: on the 17th day of April 2019, I received:

SUMMONS  
VERIFIED COMPLAINT  
JURY TRIAL DEMAND  
CERTIFICATE REGARDING ARBITRATION

from the Law Offices of David Dow, for Marcela de Jesus Guzman, and in each instance, I personally served a copy of each document listed above upon Sgt. Brandon Warner, by personally serving him. Sgt. Warner is a Caucasian male, 35 years old, 6'0", about 180 pounds with brown hair, at the place and time listed below,

ADDRESS: 17 S. 2<sup>nd</sup> Ave.  
CITY/STATE/ZIP: Phoenix, AZ 85003  
DATE: April 18, 2019 TIME: 9:21 AM

I certify under penalty of perjury the foregoing is true and correct. Executed on April 29, 2019.

  
Gary J. Viscum  
MC 8532